

STATE OF CALIFORNIA

SENATE SELECT COMMITTEE TO INVESTIGATE
PRICE MANIPULATION OF THE WHOLESALE ENERGY MARKET

HEARING RE: COMPLIANCE OF MARKET PARTICIPANTS WITH
COMMITTEE'S MAY 7, 2002 LETTER INTERROGATORIES

STATE CAPITOL
ROOM 4203
SACRAMENTO, CALIFORNIA

THURSDAY, MAY 23, 2002

12:07 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR JOSEPH DUNN, Chair

SENATOR WILLIAM MORROW, Vice Chair

SENATOR DEBRA BOWEN

SENATOR SHEILA KUEHL

MEMBERS ABSENT

SENATOR WES CHESBRO

SENATOR MARTHA ESCUTIA

SENATOR MAURICE JOHANNESSEN

SENATOR BYRON SHER

STAFF PRESENT

RONDA PASCHAL, Committee Consultant

SCOTT CHAVEZ, Consultant to Senator Morrow

ALSO PRESENT

SENATOR STEVE PEACE

INDEX

	<u>Page</u>
Proceedings	1
Opening Comments by CHAIRMAN DUNN	1
Purpose of Hearing	1
Status of Committee's Receipt of Responses by Market Participants to Interrogatories	2
Examples of Responses	2
Availability of Responses	4
Termination of Proceedings	4
Certificate of Reporter	5

0001

01 P-R-O-C-E-E-D-I-N-G-S

02 --ooOoo--

03 CHAIRMAN DUNN: Why don't we go on the record.
04 We'll call our Committee meeting to order.05 Instead of calling roll, let me simply identify
06 that the Chair and Senator Bowen are here. We also had Senator
07 Morrow, who has excused himself.08 I've had requests from several of the other
09 members about whether a quorum was necessary because of any
10 anticipated motions. I assured those that asked that we did not
11 expect, nor do we still expect, any motions to be made today.12 The purpose of this hearing today was the
13 scheduled compliance hearing, which was continued from last
14 week, and it relates to the answering of the interrogatories
15 that we served upon each of the market participants following
16 the release of the Enron memorandum, as they've come to have
17 been labled now, of about two or three weeks ago. Initially,
18 those answers were due last Wednesday, and we had scheduled a
19 compliance hearing, I believe, for Thursday.20 With a significant amount of begging and pleading
21 and cajoling, folks wanted additional time. So yesterday,
22 primarily for purposes of bringing their responses to this
23 Committee in line with their responses to FERC interrogatories,
24 which were similar, albeit not identical, but also the FERC
25 interrogatories were a follow-up to the release of the Enron
26 memorandum.27 I simply want to state on the record today what
28 is the status of the Committee's receipt of the market

0002

01 participants' responses to our interrogatories, and then
02 certainly answer any questions that Committee members may have.03 I don't believe we have any scheduled witnesses
04 to appear, but if anybody that is here wants to make any
05 comments, we certainly welcome those at the end.06 Let me begin. We have received responses from
07 virtually all of the market participants. And in a generic
08 fashion I would say most of them are in compliance, with a few
09 little issues that need to be swept up, and we will do that over
10 the next couple of days. And if we are unsuccessful, although
11 we do not anticipate that, given the minor status of the out of
12 compliance problems, but if we cannot resolve them in the next
13 week, we will again schedule up a compliance hearing with the
14 potential of moving forward with contempt.15 Let me give you some representative examples of
16 the type of answers we've received. And when I say the type of
17 answer, I'm not talking about reading the merits of the
18 responses, but simply the procedural aspects.19 Several of the market participants sought to
20 respond to our interrogatories by simply forwarding their
21 responses to the FERC interrogatories. The Chair maintained the
22 position that that was not acceptable, that we needed sworn
23 responses to the Committee's interrogatories.24 This issue is outstanding at this point with
25 respect to Duke, who has still only provided their FERC
26 responses; albeit in an affidavit, they stated under oath that
27 they believed that those responded to the Committee. We will
28 continue trying to resolve this issue with Duke at this time.

0003

01 Several of the other market participants, such as
02 Dynegy and Reliant, provided us responses to the Committee's
03 interrogatories. Some also included their responses to the
04 FERC interrogatories. Most of the merit answers were, no, they
05 did not engage in any such conduct. But most of the market
06 participants also provided more detail in which some of them

described behaviors that were similar to some of those identified in the Enron memorandum.

But of course, not unexpectedly, each of the market participants that provided such additional descriptions asserted that they were within all applicable rules and tariffs from their perspective.

In addition, some of the market participants did state that they had documents to produce. Some said not in response to our interrogatories, but more in response to the FERC interrogatories. Some of those documents have been produced; others have not.

The market participants that have not produced the documents are assuring us that will be here within a few days.

We have one outstanding issue with respect to the documents that have been produced, and that is that at least one or two of the market participants are telling us they're in their depository, and we are asking that they specifically identify which documents, by bates numbers, are responsive to the request for documents relating to their responses as a follow-up to the Enron documents.

As I stated at the outset, we expect that we will clean up these loose ends within the next few days.

The responses we have received, we have made public. Later this afternoon they will be available publicly through our office.

That does not include the documents at this point in time, as we are still attempting to resolve that aspect in the response.

And I believe that covers it, unless there's questions or comments by any of the Committee staff, Committee members? Seeing none, unless there's anyone who wishes to make any comment here today, and seeing none, we are adjourned.

[Thereupon this portion of the Senate Select Committee hearing was terminated at approximately. 12:12 P.M.]

-- oo0oo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the hearing of the Senate Select Committee to Investigate Price Manipulation on the California Wholesale Electricity Market was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

14 05-23-02.TXT
15 IN WITNESS WHEREOF, I have hereunto set my hand this
16 _____ day of _____, 2002.
17
18
19
19
20

EVELYN J. MIZAK
Shorthand Reporter

21
21
22
23
24
25
26
27
28